

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

CITIBANK, N.A., CITIBANK NORTH  
AMERICA, INC. and CITIGROUP GLOBAL  
MARKETS LIMITED,

Defendants.

Adv. Pro. No. 10-05345 (SMB)

**SO ORDERED STIPULATION  
RESERVING CERTAIN APPELLATE RIGHTS**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff, individually, and defendant Citigroup Global Markets Limited (“Defendant,” together with the Trustee, the “Parties”), by and through their undersigned counsel, hereby stipulate and agree to the following:

**WHEREAS**, on November 22, 2016, the Bankruptcy Court issued a Memorandum Decision Regarding Claims to Recover Foreign Subsequent Transfers (the “Memorandum Decision”). *Picard v. Citibank, N.A.*, Adv. Pro. No. 10-05345 (SMB), ECF No. 107-1;

**WHEREAS**, on January 18, 2017, the Bankruptcy Court entered a So Ordered Stipulation Applying Omnibus Extraterritoriality Briefing and Memorandum Decision to Certain Joinder Defendants, applying the Memorandum Decision’s international comity holding to Defendant, which was not previously subject to the Memorandum Decision. *See Sec. Inv’r Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, Adv. Pro. No. 08-01789 (SMB), ECF No. 14890; *see also Picard v. Citibank, N.A.*, Adv. Pro. No. 10-05345 (SMB), ECF No. 105;

**WHEREAS**, on March 9, 2017, the Bankruptcy Court entered the Stipulated Final Order Granting in Part and Denying in Part Motion to Dismiss (the “Final Judgment”), solely as to the Trustee’s claims for recovery of subsequent transfers Defendant received from Fairfield Sentry Limited, under Rule 54(b) of the Federal Rules of Civil Procedure. *Picard v. Citibank, N.A.*, Adv. Pro. No. 10-05345 (SMB), ECF No. 107;

**WHEREAS**, the Trustee intends to appeal the Final Judgment (the “Comity Appeal”) in this adversary proceeding by filing a notice of appeal pursuant to Federal Rules of Bankruptcy Procedure 8002, 8003;

**WHEREAS**, prior to entry of the Memorandum Decision, the United States District Court for the Southern District of New York entered the Opinion and Order, granting in part Defendant’s motion to dismiss certain of the Trustee’s claims as barred by Bankruptcy Code section 546(g). *Sec. Inv’r Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC (In re Madoff Sec.)*, No. 12-MC-0115 (JSR), 505 B.R. 135 (S.D.N.Y. 2013) (the “546(g) Decision”);

**WHEREAS**, the Parties hereby agree and stipulate that the 546(g) Decision was an interlocutory order that dismissed fewer than all claims against all parties in *Picard v. Citibank, N.A.*, Adv. Pro. No. 10-05345, and thus was not a final, appealable order as of the date the 546(g) Decision was entered;

**WHEREAS**, the Parties have conferred and agree to reserve any and all appellate rights with respect to the 546(g) Decision, notwithstanding the Comity Appeal; and

**WHEREAS**, the Parties seek entry of this proposed So Ordered Stipulation Reserving Certain Appellate Rights, acknowledging the Parties' express reservation of appellate rights with respect to the 546(g) Decision.

**NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND SO ORDERED**, that:

1. The Parties expressly reserve and do not waive their right to appeal each and every aspect of the 546(g) Decision notwithstanding the Comity Appeal; and
2. If the Final Judgment is reversed or vacated, or if this adversary proceeding is otherwise remanded as a result of the Comity Appeal, the Parties' rights to appeal the 546(g) Decision are hereby preserved until the time to appeal a subsequent appealable order expires pursuant to the Federal Rules of Bankruptcy Procedure.

Dated March 21, 2017  
New York, New York

By: /s/ David J. Sheehan  
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*Attorneys for Appellant Irving H. Picard,  
Trustee for the Substantively Consolidated  
SIPA Liquidation of Bernard L. Madoff  
Investment Securities LLC and the Estate of  
Bernard L. Madoff*

**SO ORDERED**

Dated: March 21<sup>st</sup>, 2017  
New York, New York

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/s/ STUART M. BERNSTEIN  
HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE